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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,473	07/18/2003	Kazuhisa Takano	89277.0003	4577

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EXAMINER
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WINNER, TONY H

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/623,473

Applicant(s)

TAKANO, KAZUHISA

Examiner

Tony H. Winner

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 4-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 11-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/18/03.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

***Election***

1. Applicant elects species I without traverse is acknowledged and entered. Claims 1-3 and 11-20 are readable on the elected species, corresponding to figures 1-4. Claims 4-10 are withdrawn from consideration. An action on the merits follows.

***Claim Objections***

2. Claim 14 is objected to because of the following informalities: Suggest the applicant using the recitation as follows – a first impact force --- and – a second impact force – so as to clearly defining the impact forces. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3 and 11-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation 'saddle-type vehicle' renders the claims indefinite because the examiner is unclear as to what saddle-type vehicle comprising of. Suggest the applicant deleting the word 'type'.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 11, 13-17, and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Ohsemachi (EP Publication 0082496 A1).

Ohsemachi (see figure 2) discloses a body frame damping structure in a saddle vehicle comprising:

- a. a front fork steerably supported at a front end portion of a body frame;
- b. a front wheel supported at lower end portions of the front fork; a rear arm pivotally supported at a rear portion of the body frame by a pivot support shaft so as to be swingable up and down;
- c. a rear wheel supported at a swinging end of the rear arm (8); and
- d. means (23) for generating a damping force disposed so as to bridge a first portion of the body frame with a second portion of the body frame, with means for generating a damping force being respectively coupled to the first and second portions of the body frame.

With regard to claims 3, 13-17, and 19-20 Ohsenmachi discloses all of the claimed limitations.

5. Claims 1, 2, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Takagaki et al. (EP publication 0769447 A1).

Takagaki (see figure 1) discloses a body frame damping structure in a saddle vehicle comprising:

- a. a front fork steerably supported at a front end portion of a body frame;
- b. a front wheel supported at lower end portions of the front fork; a rear arm pivotally supported at a rear portion of the body frame by a pivot support shaft so as to be swingable up and down;
- c. a rear wheel supported at a swinging end of the rear arm (28); and
- d. means (40) for generating a damping force disposed so as to bridge a first portion of the body frame with a second portion of the body frame, with means for generating a damping force being respectively coupled to the first and second portions of the body frame.

With regard to claims 2 and 12 Takagaki discloses all of the claimed limitations.

#### ***Allowable Subject Matter***

6. Claim 17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hwang ('013), Rau ('482), Takagaki ('929), Buell et al. ('674), and Trema ('717) are cited of interest.

8. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Anthony H. Winner whose telephone number is (703) 306-5957. The examiner can normally be reached on Monday-Friday from 9:30 am to 6:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris, can be reached at (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

9. Information regarding the status of an application may be obtained from the Patent Application Information-Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

  
**TONY WINNER**  
**PATENT EXAMINER**  
12/11/04